

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 20-cr-20599
Hon. Matthew F. Leitman

JOHN ANGELO, *et al.*,

Defendants.

**ORDER DIRECTING GOVERNMENT TO SUPPLEMENT
SECOND MOTION FOR AUTHORITY TO CONDUCT RULE 15
DEPOSITION (ECF No. 314)**

On February 27, 2023, the Government filed a Second Motion for Authority to Conduct Rule 15 Deposition. In the motion, the Government seeks permission to depose witness John Capella on the ground that Mr. Capella has health problems that impair his ability to appear at trial as a witness.

This is the second time that the Government has sought permission to depose Mr. Capella based upon Mr. Capella's health concerns. The Court denied the Government's previous motion without prejudice to the Government's right to renew the motion – which the Government has now done.

The Government's current motion relies on essentially the same medical evidence as the Government's prior motion for leave to depose Mr. Capella. The primary medical evidence is a few-sentence letter from Mr. Capella's physician,

dated September 21, 2022. The letter merely identifies Mr. Capella's diagnoses. The other evidence is a certification for a handicapped parking permit that Mr. Capella's physician completed on September 21, 2022. That form provides at least some information concerning Mr. Capella's functional capacity.

In the motion, the Government also provides additional information from Mr. Capella about his health and functional capacity. But the Government has not provided a sworn statement or declaration from Mr. Capella attesting to the truth of this information under penalty of perjury.

Under these circumstances, the Court concludes that it would be helpful for the Government to supplement its motion with additional information concerning Mr. Capella's medical condition and functional capacity. The update should include, at a minimum, (1) a sworn statement from Mr. Capella attesting to the accuracy of the information provided in the Government's motion and (2) an updated letter from Mr. Capella's physician that specifically addresses how Mr. Capella's health conditions prevent him from appearing as a witness at trial. The Government may include additional information in its supplement if it sees fit to do so.

The Court does not mean to suggest that it would be inclined to grant the Government's motion if the Government provides the supplemental information. The Court is requiring the supplement because the Court deems the supplemental information essential to a full and fair consideration of the issues raised in the

Government's motion. Before making any ruling, the Court will carefully consider the Government's position and all arguments offered in opposition by the Defendants.

The Government shall provide the supplementation required herein by not later than **March 15, 2023**. In the meantime, Defendants need not respond to the pending motion.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: February 28, 2023

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 28, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager
(313) 234-5126